



CPT/Inf (93) 20
English version

**Response of the Netherlands Government
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to the Netherlands
from 30 August to 8 September 1992**

The response of the Netherlands Government was published in Dutch on 20 December 1993.
The present document contains the English version of the response.

The CPT's report on its visit to the Netherlands was published on 15 July 1993
(CPT/Inf (93) 15).

Strasbourg, 1 September 1994

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Appendix: policy on HIV and AIDS

I. Introduction

1. The Netherlands Government has consistently sought to establish high human rights standards in both the national and international contexts. Respect for the basic rights of every individual must be guaranteed. This applies with particular force to all vulnerable members of the community, and especially to those held in legal custody, whose rights may not be restricted further than is necessary for the purposes of their detention. The Netherlands Government therefore considered it to be of particular importance to become a party to the European Convention for the prevention of torture and inhuman or degrading treatment or punishment at the earliest opportunity, which it proceeded to do when the Convention came into force on 1 February 1989.

2. The primary task of the Committee (CPT) set up under the Convention is to ensure that national laws and specifically their implementation are such as to provide optimal safeguards against the occurrence of torture and inhuman or degrading treatment. The Netherlands Government is confident that in its emphasis on prevention, the CPT is making a valuable contribution to the observance of human rights in everyday practice.

3. The Netherlands Government is pleased to know that on its visit to the Netherlands the CPT concluded that overall prison conditions in this country are satisfactory. The CPT has nevertheless requested additional information on various aspects of the Netherlands' policy and its implementation.

4. The following report, based on the situation as at 1 November 1993, deals in detail with the recommendations, comments and requests for information contained in the CPT's report, in much the same sequence as in Appendix I of that report. In some cases the replies to questions and comments relating to the same point are combined. The few data still to

be supplied will be forwarded with the minimum of delay.

5. Before dealing with the specific recommendations, comments and requests for information, attention will first be devoted to the remarks in the introduction to the report concerning the CPT's reception in two of the establishments visited.

II. Cooperation between the CPT and the Dutch authorities

6. The Committee expresses its satisfaction with the reception it received in the Netherlands, regardless of whether or not the persons and institutions concerned had been notified in advance of its visit. It is particularly appreciative of the attitude of the management and staff of De Schie Prison, who were most cooperative despite the fact that a number of prisoners had seized hostages and escaped shortly before the delegation's arrival.

7. There were unfortunately two exceptions, which the CPT considers to have been in breach of Article 8 (unrestricted entry to all places of detention) and Article 3 (the principle of cooperation) of the Convention.

8. The first incident concerns the difficulties encountered in gaining access to Kurdish detainees in the headquarters of the Municipal Police in Almelo. Though it was known that the CPT might visit a number of police stations, the public prosecutor in Almelo unfortunately proved to be unaware of this fact. The Kurdish detainees whom the delegation wished to see were at that moment suspected of a serious crime (extortion under threat of violence: Section 317 of the Criminal Code), and were moreover thought to be in contact with a terrorist organisation. The Court had therefore imposed certain restrictions, including a prohibition on contact with the outside world. When the delegation arrived at night and asked to see these particular detainees, neither the police officer

concerned nor the public prosecutor, whom the police officer consulted by telephone, wished to take the responsibility of agreeing to the request. Not having been informed of the possibility of such a visit, they were unaware of their obligation to cooperate with the CPT, even at night. Told of the incident the next morning, the liaison officer arranged for the visit to take place before midday.

9. The delegation encountered two difficulties at Demersluis Prison. The Netherlands Government apologises for the lack of cooperation displayed by the staff, and for the consequent delays affecting the delegation's schedule.

10. The refusal of the prison medical officer and his staff to allow the medical experts accompanying the delegation to see the medical files was based on regulations regarding the protection of privacy. In accordance with statutory provisions, administrative directives and case law, access to medical records that is not directly related to medical treatment is permissible only with the written consent of the person concerned. This rule, which applies as much to medical practitioners who are not involved in the treatment of the person concerned as to all others, is based inter alia on the provisions relating to the protection of privacy contained in Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Prison Administration Health Inspector states that in his meeting with the CPT on 31 August 1992 he offered his personal assistance in introducing the delegates to the medical services in the institutions they wished to visit. They did not accept this offer, which might have prevented the subsequent regrettable events. The Demersluis prison doctor and medical service, aware of their responsibility in such matters, felt they were properly protecting the rights of the prisoners by acting in compliance with the regulations in force in the Netherlands. The delegation was finally permitted to see a number of files after the prisoners concerned had

given their consent.

**III. Recommendations, comments and requests for information
in the CPT report**

A. National and municipal police establishments

1. Torture and other forms of ill treatment

Requests for information

in respect of 1991 and 1992:

- the number of complaints of ill-treatment lodged against police or gendarmerie officers and the number of criminal/disciplinary proceedings brought as a result of such complaints (paragraph 17);
- an account of the criminal/disciplinary penalties imposed following complaints of ill-treatment paragraph 17);

The heads of the regional police forces and the procurators general have been asked to provide information on these points. When it becomes available it will be forwarded without delay.

- the alleged ill treatment of a Turkish national detained in Venlo on 7 January 1993 (paragraph 18)

The circumstances of this case were as follows. At approximately 2.45 a.m. on 7 January 1993 a taxi driver saw a car 'zig-zagging' over the road and colliding with a post. He alerted the municipal police, who understood that a drunken driver had caused an accident. The driver of the car was taken to the police station for interrogation, and charged with an

offence against Section 26, paragraph 1 of the Road Traffic Act (driving under the influence of alcohol). As interrogation was impossible owing to what appeared to be his extreme state of intoxication, Mr Köksal was placed in a cell to recover. When he had still not recovered by 2 p.m. it was thought that his condition might be attributable to something other than inebriation, and a municipal health service doctor was called. After the doctor's examination, Mr Köksal was taken to hospital, where he was diagnosed as having suffered a cerebral haemorrhage. His condition deteriorated in the course of the afternoon, and he died at approximately 11.30 a.m. on the following day (8 January).

In view of the circumstances of the apprehension and death of Mr Köksal, the burgomaster of Venlo, as head of the municipal police force, and the chief constable asked the national criminal investigation department (CID) to carry out an investigation. The CID is a police unit attached to the offices of the procurators general, on whose instructions it conducts investigations into alleged breaches of discipline or criminal offences on the part of police officers. On 3 February 1993 the CID presented to the procurator general of 's-Hertogenbosch its report containing the findings of the investigation into the circumstances of the apprehension and death of Mr Köksal.

The findings and provisional conclusions contained in the report were as follows:

1. Mr Köksal died as the result of a massive cerebral haemorrhage caused by a pathological abnormality of a cerebral artery. On the basis of the statements of witnesses, it could be assumed that the haemorrhage had occurred before he was arrested by the police.

2. In regard to his arrest, transfer to and detention at the police station, it was established that at various times one

or more of the police officers concerned had failed to exercise proper care. It was not ascertained whether the person detained was in fact the driver of the vehicle, nor whether he was indeed under the influence of alcohol or of other substances affecting the ability to drive. In a letter to the Venlo police, the public prosecutor at Roermond emphasized the fact that in all cases where driving under the influence is suspected, the provisions of Section 33 of the Road Traffic Act must be strictly observed in that an effort must always be made to carry out a breath, blood or urine test before basing charges on the assumption of intoxication. Moreover, the police officers concerned acted in breach of the regulations by failing to call a doctor immediately upon Mr Köksal's arrival at the police station. Furthermore, disproportional and therefore unlawful force had been used in his arrest and transfer to the station. This included the use of handcuffs, which was likewise in breach of the regulations.

The public prosecutor stated on 8 February 1993 that in his judgement one or more of the Venlo police officers could be presumed to have committed punishable offences, and on that date he issued instructions for a preliminary judicial investigation to be instituted against seven police officers. The investigation, led by the examining magistrate, was to determine whether Mr Köksal would have benefited from immediate medical treatment, and thus enable the Public Prosecutions Department to decide whether criminal charges were to be brought on the grounds of culpable homicide (Section 307, Criminal Code) or abandoning a person in a helpless condition (Section 255, Criminal Code). In addition, two police officers were under suspicion of assault (Section 300, Criminal Code).

On the basis of the results of the CID investigation and of the recommendations of an independent external advisory bureau, the head of police decided not to await the outcome of the judicial inquiry but to impose disciplinary measures on

three of the police officers concerned. A police sergeant found to have been in serious dereliction of duty by the use of undue force in arresting Mr Köstal was suspended from duty, and a constable and a constable 1st class received a written reprimand for dereliction of duty. The constable had not attempted to restrain his superior officer, the sergeant, in his use of undue force, and in his report on the arrest the constable 1st class had made no mention of the sergeant's conduct even though the constable had informed him of it.

The preliminary judicial investigation was completed towards the end of July 1993. The Public Prosecutions Department announced a number of findings and ensuing decisions in a statement issued on 20 July.

1. It could be concluded from the reports of medical experts that the cerebral haemorrhage suffered by Mr Köksal was certainly not caused by the actions of the police and that his death could probably not have been prevented if medical aid had been procured sooner. There being no direct correlation between either the actions of the police officers or their failure to act and the death of Mr Köksal, they could not be accused of culpable homicide (Section 307, Criminal Code).

2. In view of the fact that none of the police officers concerned had realised that Mr Köksal was not intoxicated but had suffered a cerebral haemorrhage, they could not be charged with having wilfully abandoned him in a helpless condition (Section 255, Criminal Code) as they had been unaware of his condition.

3. The police officers concerned had been in breach of a number of police regulations, for which reason the head of police had imposed disciplinary measures on three of them.

4. In regard to the two police officers under suspicion of assault, the public prosecutor brought no charges against one,

whose part in the events had been negligible; the police sergeant, on the other hand, having used undue force exceeding the bounds of proportionality and subsidiarity, was considered to be criminally liable.

The police sergeant was charged with assault aggravated by breach of duty and proceedings were instituted against him. The case was to be heard on 28 October 1993, but he lodged an appeal against the summons and on 27 October the Court at Roermond ordered the charges to be withdrawn on the ground of insufficient evidence. The public prosecutor has appealed against this decision.

- the comments of the Dutch authorities on allegations of ill-treatment of persons in the course of their expulsion from the Netherlands and on the procedures in this area (paragraph 18).

1. Expulsion procedures:

Aliens whose entry to the Netherlands is prohibited under the Aliens Act may be expelled. Expulsion is subject to a number of safeguards, such as the requirement that a written expulsion order must first be issued by the appropriate authorities to an official charged with the supervision of aliens. The authority to issue expulsion orders is vested in the State Secretary for Justice and, in a number of cases, in the head of the municipal police force. Unless contrary to the interests of public order or national security, aliens must be allowed a reasonable length of time in which to leave the Netherlands for a country to which their entry is guaranteed.

Expulsion may be carried out:

- a) by handing the person concerned into the charge of foreign border guards;

- b) by placing the person concerned on board an aircraft or ship operated by the company responsible for his/her transport to the Netherlands;
- c) if neither a) nor b) is possible, by transporting the person concerned direct to the country to which his/her entry is guaranteed.

In all instances, the actual expulsion is carried out by officers of the Royal Netherlands Military Constabulary. If the behaviour of the person concerned is such as to require it, they escort him/her to the country of destination.

2. Use of force:

Confronted with physical opposition in the various stages of the expulsion process, the officers concerned (not only the Military Constabulary but also police officers and staff of the Border Detention Centre (Grenshospitium) and remand centres) may be obliged to resort to force in order to perform their task. The rules applying to the use of force, defined as the threat or the application of physical force of more than minor significance, are outlined below.

- 1) Force entailing restriction in the exercise of fundamental rights must be based on statutory provisions such as Article 15.4 of the Constitution and Section 33a of the Police Act.
- 2) Force may be used only in the performance of the official duties of the officer concerned.
- 3) The object for which force is used cannot be otherwise achieved, and that object, taking account of the possible dangers involved, justifies the use of such force.
- 4) The amount of force used may not exceed the level necessary to achieve the object in view.

5) Prior to the use of force a warning must be given wherever possible.

6) The official must report the fact that force has been used to his superior.

Taking into account the facts and circumstances of each individual case, the use of handcuffs is warranted only when it may reasonably be assumed that an element of danger is involved.

There are various complaints procedures open to persons alleging the unlawful use of force (see paragraphs 41, 42 and 52 of the CPT report for channels for lodging complaints about ill-treatment by the police). Aliens may also apply to the public prosecutor to institute criminal proceedings.

A commission chaired by the President of the Amsterdam Court of Appeal which has been appointed to determine how expulsion can best be carried out is also looking into the question of regulating the extraterritorial powers of officials escorting aliens expelled by ship or aircraft. It will be clear that the powers vested in such officials cannot exceed what is permitted by the countries in which those powers are to be exercised.

3. Incidents involving the use of force at Schiphol Airport:

The Royal Military Constabulary keeps a record of all instances in which expulsion involves the use of force. In 1991 6323 aliens were expelled through Schiphol Airport. Of the 54 cases in which force was deployed, 3 required the application of light physical force, 38 the use of handcuffs, and 13 that of handcuffs and gagging tape (wide adhesive tape across the mouth to prevent shouting and biting). The figure for 1992 was 6799, of which 46 required the use of force: 3 light, 39 with handcuffs, and 4 with both handcuffs and

gagging tape.

The following examples of violence against Military Constabulary officers and of self-mutilation are given by way of illustration.

5 April 1992: During a fuelling stop in Lisbon a person being expelled to Bissau attacked his escort and a struggle ensued. When the aircraft was again airborne he made a violent attempt to reach the cockpit.

7 April 1992: En route to Casablanca a person being expelled attacked his escort, wounding him on the hands and face.

1 August 1992: A highly refractory alien en route to Abidjan bit his escort on the wrist and fingers.

6 October 1992: A person being expelled tried to grab the pistol of the police officer who had escorted him to the airport for a flight to Accra.

19 November 1992: Shortly before take-off a Sierra Leone national stripped off his clothes and refused to re-dress.

13 December 1992: A Romanian slashed his wrist.

18 December 1992: An alien tried to slash his wrists in the police car taking him to the airport.

30 December 1992: Four Iraqis stated at the airport that they wished to apply for asylum. While awaiting the processing of their application, two made superficial incisions in their wrists, one stabbed himself in the abdomen, and the fourth swallowed a razor blade.

4. Van den Haak Commission:

An unfortunate incident with a Romanian occurred at Schiphol Airport on 10 April 1992. After violently resisting expulsion, he was gagged with gagging tape. He lost consciousness and became partly paralysed. Although the subsequent investigation by the CID established that the Military Constabulary officers had not used a disproportionate amount of force, and no conclusive link was found between the use of gagging tape and the man's injuries, a commission was set up early in 1993 partly as a result of this incident. Chaired by Mr Van den Haak, President of the Amsterdam Court of Appeal, the Commission was requested 'to draw up recommendations on the policy to be adopted in respect of aliens to whom entry is denied or who are to be expelled, devoting special attention to their treatment, and specifically to the use of force at the time of their expulsion'.

The Commission's report, 'Humane expulsion: a paradox?', was presented to the State Secretary for Justice on 6 May 1993. The Commission heard many senior and other officials from all the departments and services concerned, and conducted a comprehensive analysis of expulsion procedures. The manner in which the Royal Military Constabulary performs its duties was rated 'vary satisfactory' to 'good'. The Commission made a number of recommendations regarding improvements to policy, the majority of which were adopted by the State Secretary for Justice. To give some examples:

- In the establishments where aliens are held pending expulsion full account is to be taken of the difficulties and the stress integral to their situation, facing expulsion on the one hand, and more practical and material problems on the other. This work requires adequately trained staff, and therefore special 'return officers' have been appointed in both the establishments and the aliens departments of the larger police forces. Their task includes ensuring that

reports on the conduct and health of aliens are forwarded in good time to the services to whose care they will eventually be entrusted, primarily those responsible for transport and the Military Constabulary detachment at Schiphol Airport, and that aliens are informed in advance of the date of their expulsion.

- The Military Constabulary is to be provided as soon as possible with more facilities for the accommodation of persons refused entry to the Netherlands and who are to be expelled. Provision has been made for the requisite premises in the building plans for the extension of Schiphol Airport. The new facilities, comprising separate temporary accommodation for 50 men and women and a 10-cell block, will be available in the course of 1994.

- The use of adhesive gagging tape will be discontinued.

- The use of straitjackets and restraining stretchers as a means of controlling aggression will be permitted only in exceptional cases. Expulsion need not be proceeded with at all costs, but in some cases may be deferred to a later date. At the Commission's suggestion, the Netherlands Organisation for Applied Scientific Research (TNO) has been asked to explore the possibility of designing a special helmet for deportees who spit, bite and shout.

- Pharmaceutical products such as sedatives are to be administered solely on medical grounds.

- In order to facilitate ongoing analysis of expulsion policy and its adjustment wherever necessary, structural and ad hoc consultation will be promoted at many different levels.

2. Conditions of detention in police establishments

recommendation

- a high priority to be given to the problem of the holding of persons on remand or in administrative detention for lengthy periods in police establishments in the Netherlands (paragraph 33).

The basic rule here is that orders for the detention of aliens are executed in a remand centre or an establishment as referred to in Section 7a of the Aliens Act, not in a police cell. Due to the capacity shortage, however, it is sometimes necessary to hold aliens for some length of time in police cells, as provided for in Section 84 of the Aliens Decree. In such instances they may apply to the Court under Section 40 of the Aliens Act. The Court may order their release on the ground that detention in police cells is contrary to the law, or that, having regard to all interests concerned, such detention may not reasonably be regarded as justified. In order to limit the detention of aliens in police cells as far as possible, it was resolved to expand the capacity for this category of detainees in remand centres to 280 by the end of 1993, bringing the total number of places available up to 650.

Persons held in pre-trial detention are likewise placed in remand centres wherever possible. Here too, however, the existing lack of capacity may necessitate their being held for lengthy periods in police cells.

The capacity shortage is expected to continue for a few years more. This being the case, the Council of State has recently been asked for its comments on a parliamentary bill making it legal for persons under pre-trial detention orders to be held in police stations for part of the time, while at the same time providing that cells used for that purpose must meet much stricter requirements in regard to sanitary provisions, space and visiting facilities than ordinary police cells.

Under Section 69 of the Code of Criminal Procedure, suspects may ask the district court to annul pre-trial detention orders. Where such an order was issued by the district court, the suspect can lodge an appeal with the Court of Appeal within three days of the date of the order pursuant to Section 71 of the Code of Criminal Procedure. In both cases the Court may give a ruling on the establishment where the detainee is held.

comments

- the premises of Amsterdam Police Headquarters are not suitable for detention for lengthy periods (paragraph 22)

In practice the present accommodation is used for detention not exceeding a period of three days. The new buildings will be suitable for longer periods of detention.

- in view of their size, the cells in the 1st district police station of the Amsterdam Municipal Police are hardly suitable for stays of more than a few hours (paragraph 25)

The cells in the 1st district vary in size from 7 sq.m. (4 cells) to 5.5 sq.m. (6 cells) and 3.75 sq.m. (2 cells), which latter (as the only cells smaller than the 5 sq.m. mentioned by the CPT, are probably those to which it refers) are used only for drunks until they recover. The other cells meet the standards of the CPT - the largest indeed measuring the approved 7 sq.m. - and conform to the regulations of the Ministry of Justice. The larger cells are occupied first, followed by the smaller ones for subsequent arrivals, for the period of remand in police custody (maximum 3 x 24 hours).

- substantial renovation of the premises at the 4th district police station of the Amsterdam Municipal Police is required (paragraph 25)

After the delegation's visit, the IJ tunnel police station (4th district) was extensively renovated between September 1992 and June 1993. All cells now more than meet the Ministry's standards.

- the size of the older cells at Amsterdam Police Headquarters renders them hardly suitable for stays of more than a few hours (paragraph 28)

The older cells are indeed smaller than the new ones. They are generally used only at night, their occupants spending the day in one of the recreational areas.

requests for information

- any new legislative provisions or regulations on police cells adopted by the Dutch authorities as a result of the draft amendments proposed by the Minister of Justice (paragraph 21)

and

- information on the implementation of the proposals for instructions put forward by the Principal Crown Counsels, concerning the removal from service of cells which do not meet ministerial requirements (paragraph 21)

A new Police Act governing reorganisation encompassing the replacement of the municipal forces and the National Police Force by regional police forces and a National Police Services Force is at present before Parliament and is expected to become effective early in 1994. The aim of the reorganisation is to increase security in the Netherlands.

The new Act also remedies the shortcomings of the existing piecemeal regulations governing the accommodation, treatment and care of persons held in police cells. The need for new and more detailed regulations was pointed out on various occasions in the past. Following on a recommendation by the National Ombudsman, for instance, it was agreed that attention would be devoted in the new regulations to registration of the care of persons in custody. A similar pledge was made to the Coornhert League (Association for Criminal Law Reform) in respect of the registration of deaths and suicide attempts in police cells. Though general regulations on the care of persons in police custody are still lacking, a study currently being conducted by Leiden University indicates that their treatment is fairly uniform. The study is based on the existing regulations derived from the Code of Criminal Procedure and on internal police rules and regulations.

At a meeting in 1991 the procurators-general adopted proposals designed to improve the situation regarding the cells used for persons remanded in police custody. They are compatible with the recommendations put forward by the National Ombudsman. One of the proposals provides for five-yearly structural inspections of cells. A stricter policy has been formulated regarding the use of sub-standard cells: exemptions will be granted for a period of one year provided the necessary adjustments are made. Where no adjustments are possible, such cells may be used only in exceptional cases. The reasons for all decisions on exemption from the rule must be stated, and the decisions recorded. In principle, such exemptions will be for a fixed period. Section 62 of the Code of Criminal Procedure will be amended to provide a statutory basis for present and future regulations governing accommodation for those remanded in police custody.

In addition, new regulations concerning persons held in custody are to be incorporated in the Regional Police Forces (Administration) Decree based on the new Police Act. They are

intended to govern the accommodation, treatment and care of all persons held in police stations. The Decree will be consonant with the relevant sections of a new code of conduct for the police, the Military Constabulary and special law enforcement officers to be drawn up on the basis of the Police Act. It will charge the heads of police with responsibility for the basic facilities for detainees, including social and medical facilities. The way in which these provisions are worded - '.....in order to ensure that the detainee is provided with.....' - indicates their mandatory nature. They are based on the premise of standard treatment from which deviation may be permitted in exceptional cases. The Code of Criminal Procedure makes provision for restrictions required in connection with criminal investigations, which are to be carefully considered in each individual case. Following on from the responsibilities of the heads of police forces, the new Code of Police Conduct will deal with the treatment of detainees by police officers. The Decree will also regulate the material conditions in police cells, and incorporates the proposals put forward by the procurators-general.

- details of the planned modifications to the detention areas at the 4th district police station of the Amsterdam Municipal Police (paragraph 25)

The information requested will be supplied in the supplementary report.

- information on the categories of detainees placed in the observation cells at Amsterdam Police Headquarters, on any special measures taken to supervise or assist such persons and on the frequency with which those cells have been used over the past twelve months (paragraph 29)

Observation cells are used solely for protective purposes. The detainees placed in such cells display suicidal tendencies, have self-inflicted injuries, or are highly aggressive. They

may also be there for medical reasons. Surveillance and/or assistance is carried out by doctors and psychiatrists, duty officers (individual checks recorded in the computer), and round-the-clock surveillance by means of a closed-circuit TV system.

All detainees are permitted to make one telephone call, provided it is not prejudicial to the interests of the investigation. In the case of a criminal investigation, the decision is made by the assistant public prosecutor. If it is negative, a relative or other third party may, if the detainee so wishes, be informed by the investigating officer. In addition, the defence counsel service is notified of all persons taken into custody, to whom legal counsel thus becomes available. This right is monitored by the committee concerned with supervision of Amsterdam police cells.

No more than three to five persons per year are placed in observation cells, and as in such cases a doctor is called in immediately, the length of their stay tends to be short.

3. Safeguards against ill-treatment of detainees

recommendations

- persons detained by police or gendarmerie officers to inform, without delay, a relative or third party of their choice of their situation (paragraph 38)

and

- any possibility exceptionally to delay the exercise of the above-mentioned right to be clearly circumscribed, made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior officer or public prosecutor) and strictly limited in time (paragraph 38)

To allay feelings of alarm, the Netherlands Government considers it to be of importance that relatives or partners of detainees be informed of their whereabouts. This is standard procedure. Partly in response to the CPT's comments on this point, it will be incorporated in the new Code of Conduct for police, gendarmerie and special law enforcement officers, making it mandatory for the parents or other relatives of minors to be notified of their detention without delay. In the case of other detainees, such notification will be given on their request, except when it is considered to be prejudicial to the interests of the investigation. Section 62 of the Code of Criminal Procedure allows such restrictions to be imposed, subject to strict conditions.

- persons held for interrogation by the security forces to be entitled to have access to a lawyer as from the very outset of their deprivation of liberty. This right should include both the right to contact the lawyer and to be visited by him (in both cases under conditions guaranteeing the confidentiality of their discussions) and, in principle, the right for the person concerned to have the lawyer present during interrogation (paragraph 41)

and

- steps to be taken to ensure that every person detained by the security forces has the right to consult in private with a lawyer (where necessary, an officially appointed lawyer), without delay (paragraph 42)

Persons may be deprived of their liberty in various ways:

- Persons caught in the act of committing a crime or suspected of having committed a crime may be held for police interrogation for a maximum of six hours, which may be extended by the hours from midnight to 9 a.m. (Section 61.2, Code of Criminal Procedure).

- On the expiration of this period, the public prosecutor or assistant public prosecutor may order the suspect to be held for a further period not exceeding four days (Section 57.1, Code of Criminal Procedure). In accordance with a guideline issued by the procurators-general subsequent to a ruling of the European Court of Human Rights on 29 November 1988 (the Brogan case), remand in police custody is restricted in principle to three days. On not later than the third day, the suspect is brought before the public prosecutor and the examining magistrate, who may order him to be held for a further specified term.

- On the expiration of the above term, the district court sitting in chambers may order him to be remanded in custody for thirty days, which term may twice be renewed.

The procedure in the Netherlands regarding access to legal counsel is consistent with the CPT's recommendations in that suspects have the right to legal representation from the moment they come under suspicion (Section 28.1, Code of Criminal Procedure). Moreover, they are permitted as far as possible to contact their lawyers whenever they wish (Section 28.2, Code of Criminal Procedure). In principle, lawyers have free access to their clients (Section 50.1, Code of Criminal Procedure), personal contact and correspondence between them being subject only to the following restrictions:

- Institutional rules and regulations must be observed (e.g. no visits at night).

- The investigation may not be impeded (e.g. if the detainee is required for interrogation, this takes priority over consultation with his lawyer).

- Meetings between lawyers and clients take place under the supervision necessary to prevent escapes and to ensure the safety of the lawyer. It may however not interfere with the private nature of their discussions.

The examining magistrate (during the preliminary judicial investigation) or the public prosecutor (during the police investigation) may order a detainee to be denied the right of free access to counsel (Section 50.2, Code of Criminal Procedure) in the following exceptional cases:

- If there are grounds for suspecting that the lawyer is informing the client of facts of which he is to remain unaware while the investigation is proceeding.
- If there are grounds for suspecting that their contact is being misused in an attempt to prevent the investigating officers ascertaining the true facts.

An order of this kind is valid for six days, and must immediately be notified to the district court, which gives its ruling after hearing the lawyer in question. It does not imply a total prohibition of legal assistance, but relates solely to contact between the detainee and a particular lawyer. According to information obtained from the Public Prosecutions Department, such orders are rarely issued.

Suspects have the right to be assisted by legal counsel during interrogation by the public prosecutor or his deputy preceding possible remand in police custody. Such a hearing must take place as soon as possible, and in any case within six hours of the arrest, excluding the period between midnight and 9 a.m. The police interrogation may begin before that period. There are often practical difficulties in finding a lawyer who is available at such short notice. Moreover, it is not considered desirable for legal counsel to be present during the police interrogation, when the investigating officer is intent upon creating an atmosphere in which the person concerned is prepared to cooperate in establishing the facts and clarifying his role in the suspected crime. The presence of legal counsel at this stage could have the effect of lessening his willingness to cooperate, which would oblige the police to make more frequent use of other measures to establish the

truth such as searching the premises of third parties. As measures of this kind take more time than interrogation, it could mean prolonging the period of pre-trial detention. There is no evidence to suggest that the police make improper use of interrogation procedures. At all levels of police training close attention is focused on conducting interrogations in accordance with the relevant sections of the Code of Criminal Procedure and rules of ethical behaviour. Abuse is moreover unlikely given the extensive monitoring of police interrogations through:

- mutual observation;
- police complaints procedures (see paragraph 54 of the CPT's report);
- complaints addressed to the National Ombudsman;
- Court rulings regarding the validity of evidence and thus of statements made by suspects under police interrogation. Evidence unlawfully obtained is not admissible in Court.

As the CPT rightly observes in paragraph 55 of its report, 'In other words, any person in the Netherlands who may wish to complain about ill-treatment whilst detained by the police benefits from access to an extensive range of complaints procedures'. Furthermore, as laid down in Section 61 of the new Police Act, rules for the investigation and settlement of complaints regarding the conduct of police officers are to be drawn up by regional police boards.

In the light of the above and in consideration of the interests of law and order, the method of interrogation practised in the Netherlands is considered to be permissible. Studies carried out in other countries, both those with comparable judicial traditions and others, have not indicated any need to change the system adopted in the Netherlands.

- all medical examinations of detainees to be conducted out of the hearing and - unless the doctor concerned

requests otherwise - out of the sight of police or gendarmerie officers (paragraph 46)

Pursuant to Articles 10 and 11 of the Constitution, everyone has the right to respect for his privacy and the right to inviolability of his person. This principle is also observed in respect of detainees wherever possible. In this connection Article 15.4 prescribes that a person who has been lawfully deprived of his liberty may be restricted in the exercise of fundamental rights in so far as the exercise of such rights is not compatible with the deprivation of liberty. It is thus permissible for a police officer to be present at a medical examination if this is deemed to be in the interests of the investigation. It is to be explicitly stated in the new Code of Conduct that in such cases the officer may not impose restrictions on the doctor's examination or on the treatment he prescribes.

- the results of every medical examination as well as any relevant statements by the detainee and the doctor's conclusions to be recorded in writing by the doctor and made available to the detainee and his lawyer (paragraph 46)

Detainees have the same right of access to their medical files as all other patients. They must also be made available to lawyers authorised by the patients concerned. These rights are specified in guidelines issued by the Royal Dutch Medical Association (KNMG), and are based on case law, the Data Protection Act and draft legislation on medical treatment contracts between doctors and patients.

- a form setting out the rights of detainees in a straightforward manner to be given systematically to detainees at the outset of their custody. The detainee to be asked to sign a statement attesting that he has been informed of his rights in a language which he

understands (paragraph 48)

Research has shown that not all detainees are systematically given this information. Remedying this situation can remove some of their uncertainty about what awaits them, and it will accordingly be specified in the Regional Police Forces (Administration) Decree that all persons taken into custody are to be informed of the prison regime, for instance by means of a copy of the regulations for the prison or cell block in which they are confined. The actual substance of the information, and the languages in which it is to be presented, will be decided by the police forces themselves.

- a code of practice for interrogations to be drawn up by the Dutch authorities (paragraph 50)

The interrogation of suspects comprises an important part of police training courses, which place particular emphasis on the point that treating the suspect in a manner consonant with human dignity is a primary requisite for professional interrogation. The CPT's recommendations regarding aspects receiving little or no attention in police training colleges will be brought to their notice. Police training and experience as well as the existing supervisory system are however such as to render a supplementary general guideline unnecessary.

comment

- the Dutch authorities are invited to consider extending independent supervisory systems to all police and gendarmerie detention areas in the Netherlands (paragraph 52)

The municipal councils of Amsterdam, The Hague and Oss have set up commissions for the supervision of police cells. They

report their findings to their respective councils. Under the new Police Act the municipal councils will no longer possess direct administrative powers, which will pass to a police manager supported by a regional body composed of the burgomasters of the municipalities in the police region, the chief public prosecutor and the chief of police. The police managers will be empowered to institute such supervisory commissions if they wish. There is considerable interest amongst police forces in the idea of commissions charged with supervising the treatment of detainees.

requests for information

- the comments of the Dutch authorities on allegations by many detainees that they had had no contact with a lawyer until the end of the second or even third day of police custody (paragraph 43)

Although, as mentioned above, suspects may be assisted by legal counsel from the outset, this is often not the case until they are remanded in police custody. Section 40 of the Code of Criminal Procedure guarantees legal assistance for suspects held in police custody who have not requested a lawyer of their choice.

Extension of this form of statutory legal aid to the period of interrogation preceding possible remand in police custody is not considered advisable for practical reasons (see the comments on paragraphs 41 and 42 of the CPT report). Moreover, the period in which suspects may be held for interrogation being so short (six hours), it will not always be possible to find a lawyer who is immediately available. Deferring the interrogation until such time as counsel can be present is not a viable option as it would seriously delay or impede the investigation.

The legal aid procedure as laid down in Section 40 of the Code

of Criminal Procedure and elaborated by Ministerial Order of 9 January 1987 is as follows. The public prosecutor or assistant public prosecutor notifies by telephone the district legal aid centre approved by the president of the Bar Council that a suspect has been remanded in police custody. The centre informs the prosecutor at once or with the minimum of delay whether a rota service lawyer is available. If the suspect has requested the assistance of a particular rota service lawyer and the latter agrees to represent him, the centre complies with the request.

Generally speaking, suspects are provided with legal counsel on the first day of remand in police custody. The procedure outlined above is standard procedure. If more time elapses before suspects are able to communicate with their legal counsel, this is due to the fact that he/she was not immediately available.

- the circumstances which might preclude access by a detainee to a doctor of his choice (paragraph 46)

In principle, police officers meet detainees' requests to call a doctor of their choice, in accordance with the guidelines for the treatment of persons in police care (Government Gazette 1987, 213). This will be incorporated in the new Code of Conduct.

Exceptions to this rule are made either on practical grounds or for reasons relating to the criminal law. The practical aspect is that it may not be possible to engage the services of the doctor in question because he is not available at that moment or because he lives too far away. The exception on criminal law grounds is a situation - one which rarely occurs - in which there is reason to suppose that a visit by a doctor known to the suspect could negatively influence the investigation. The circumstances in such a case are similar to those described in the comments on paragraphs 41 and 42.

- whether it is envisaged to use more widely a computerised system for recording aspects of detention (paragraph 51)

In accordance with the Regional Police Forces (Administration) Decree, the Ministers for Home Affairs and of Justice will determine what data are to be recorded in this way. This point will be dealt with in more detail in the supplementary information.

- whether such information held in a police computerised recording system is made available to the detainee and his lawyer (paragraph 51)

Pursuant to the Data Protection (Police Files) Act all persons may request access to their personal data in police files, including records of arrests. Such requests should be addressed to the person in charge of the police files concerned. The information stored in the computer system may also be made available to lawyers with the authorisation of their clients.

- whether the competent judicial authorities exercise on the spot supervision of detention measures in police premises (paragraph 53)

There is no special supervision of the police treatment of detainees prior to the committal hearing before the examining magistrate (not later than the third day after the remand in police custody). Official reports are drawn up on the arrest and remand in police custody of suspects. As noted above (cf. paragraph 41 of the CPT report), counsel is allowed full access to the suspect from the outset of detention, and will consider it part of his duty to monitor the treatment of his client by the police and to report any misconduct he may observe to the public prosecutor or the examining magistrate. In addition, monitoring elements such as internal supervision,

complaints procedures, the National Ombudsman and the judicial examination of evidence may be presumed to have a preventive effect.

- copies of the annual reports produced in 1991 and 1992 by Complaints Commissions (paragraph 54)

The relevant bodies have been requested to provide copies of these reports, which will be forwarded when they come to hand.

B. Prisons and Youth Detention Centres

1. Torture and other forms of ill-treatment

requests for information

- the number of complaints of ill-treatment by prison officers or members of the staff in youth detention centres made in the Netherlands during 1991 and 1992 and the number of cases in which disciplinary/criminal proceedings were initiated, with an indication of any sanctions imposed (paragraph 62)

There are many ways in which detainees can lodge complaints of ill-treatment/assault by staff in penal establishments. The first step is to report such an incident to the complaints commission of the establishment concerned. Detainees sometimes report such incidents in a letter to the Medical Inspectorate or other judicial officials. There is no systematic central registration of reports of this kind, but a register is kept of cases found serious enough to require a CID investigation. The number of such cases is comparatively small, numbering two in 1991 and three in 1992. Those investigated in 1992 included the incident in the Border Detention Centre referred to in paragraph 18 of the CPT report.

- a full account of the incident which took place on 11 August 1992 in unit 4A of Demersluis Prison, together with the results of any enquiries which may subsequently have been carried out and details of any disciplinary proceedings which may have resulted (paragraph 64)

Two prison officers released a prisoner from his cell for work. He had no wish to go to the work cell and directed highly aggressive language at one of the officers, who did not react. When the prisoner at length declared himself willing to accompany them, the officers had meanwhile decided that in view of his aggressive attitude, it was wiser to leave him in his cell. Informed of this, the prisoner approached the officers and lunged into one, who told him to desist. Ordered to return to his cell, the prisoner resumed his verbal abuse and then punched one of the officers in the face. As the officer turned away, he punched him again. The officers summoned the assistance of colleagues, and the prisoner was forcefully removed to an isolation cell on the top floor. Informed of the incident by the prison director, the public prosecutor saw no reason to institute an inquiry. The prisoner concerned did not report the incident to the police, even though he had the opportunity to do so. No disciplinary action was taken against the prison officers.

2. Special detention units

recommendations

- an enquiry to be carried out without delay into the operation of unit 4A of Demersluis Prison; the aims of this enquiry to be, inter alia, to examine relations between staff and inmates in the unit with a view to their improvement and, more generally, to develop a regime along the lines indicated in paragraph 90 of the report (paragraph 92)

and

- steps to be taken immediately to ensure that all prisoners in both units 4A and 4B of Demersluis Prison are allowed at least one hour of exercise in the open air every day, in areas sufficiently large to enable them to exert themselves physically (paragraph 92)

The delegation visited Demersluis Prison when it had been operational for only a short time. This explains much of the situation of which they are critical in the report. Many changes have since been made. In consultation with the Ministry of Justice, the prison administration took the initiative of introducing measures creating a regime which answers in the broadest sense to the CPT's requirements.

Relations between staff and inmates were subjected to a close scrutiny, including a review of the composition of the staff. Of the nineteen employed in the unit at the time of the delegation's visit, seven have been replaced by officers more qualified to work in this environment, and a psychologist has been engaged on a part-time basis.

Close attention is being devoted to closing the gap in education and training, while work, sports and recreational facilities are now up to standard. The inmates are encouraged to take part in all activities; only those consistently declining to participate in specific activities are confined to their cells during the time reserved for those activities. In the course of 1994 the inmates will also be allowed one hour of outdoor exercise every day. The general atmosphere in the unit has improved as a result of these changes. This is evidenced by a drop in the number of complaints.

Given the extremely difficult nature of the category of prisoners held in unit 4A, the conditions of their detention may be described as balanced and appropriate. The prison administration and Ministry representatives meet regularly to

discuss the question of further adjustments.

- a high priority to be given to the project concerning two new EBI units, and the remarks made in paragraph 90 to be taken fully into account in the design of the regimes to be applied within those units (paragraph 93)

and

- measures to be taken immediately to ensure that all prisoners held in EBI units are allowed at least one hour of exercise in the open air every day, in areas sufficiently large to enable them to exert themselves physically (paragraph 95)

and

- the placement of a prisoner in a special detention unit to be fully reviewed at least every three months (paragraph 96)

and

- the projected timescale for the bringing into service of the two new EBI units, details of the regimes to be applied within them and information on whether the existing system of regular transfers between EBIs will continue to apply (paragraph 94)

and

- the current situation and the measures envisaged in respect of contact with the outside world for EBI prisoners (paragraph 134)

Substantial changes have been effected in respect of the EBIs since the delegation's visit. In April 1993, after a series of serious incidents involving hostages, the State Secretary for Justice announced a number of measures to minimise the risk of escape through the seizing of hostages. They include the following:

1. The main building of Nieuw Vosseveld Prison in Vught has been designated a temporary EBI (TEBI) for the category of prisoners representing an extremely high escape risk. This

involves the phasing out of the four present EBIs, which has now been effected in Rotterdam, Hoogeveen and Sittard.

2. Contacts between prisoners and others are subject to security measures in order to minimalise the risk of hostage-taking.

3. For security reasons a glass division separates prisoners from all visitors. No distinction is made in this respect between prison officials and other persons (relatives, lawyers, probation officers).

4. Partly in response to the CPT's recommendations, outdoor exercise areas with a metal-grid covering have been provided in the Vught TEBI in place of the special security areas ('luchtkooien') in the EBIs. This is the sole improvement possible within the given constructional limitations. In accordance with internal regulations and TEBI guidelines, inmates are allowed at least one hour of outdoor exercise each day.

A restrictive regime is unfortunately necessary for a small proportion of inmates in view of the above-mentioned incidents involving the seizure of hostages. Such incidents represent an unacceptable danger to the staff and to the public at large. Nevertheless, the aim is to reduce the pressure on these prisoners wherever possible. The TEBI staff have been instructed to seek and maintain personal relations with the inmates; the permanent in-service training provided is to be further elaborated on the basis of present experience; and special provisions have been made for the prisoners' personal needs (extra psychiatric treatment, periodic physical and mental health checks). Regular checks are to be made by a supervisory committee appointed to assist the prison administration. A function assessment covering both security and the prevailing atmosphere will be carried out three months after the TEBI unit becomes fully operational.

It should be noted that the Vught TEBI unit is a temporary provision bridging the period up to the opening in 1995 of new EBIs in Vught and Lelystad. The regular transfer of EBI prisoners has come to a halt for the time being. The EBI Selection Advisory Committee assesses the need to extend placement in an EBI unit once every six months, and meets once a month to discuss items affecting the EBI population as a whole, when placement elsewhere can also be considered where necessary.

The Committee's recommendations for the regime in the new EBIs at Vught and Lelystad are a certain freedom of movement within the units, a relaxed atmosphere based on good relations between staff and inmates, and an adequate and varied choice of activities. These recommendations will be taken into account in the plans for the two new units.

- a prisoner placed in a special detention unit or whose placement is renewed to be informed in writing of the reasons for that measure, unless significant security requirements dictate otherwise (paragraph 96)

Such prisoners are indeed informed in writing of the reasons for the measure, usually in advance of its execution.

- a prisoner in respect of whom such a placement measure is envisaged to be given an opportunity to express his views on the matter (paragraph 96)

A prison director intending to request that an inmate be transferred to an EBI unit first discusses the matter with the inmate concerned, thus giving him the opportunity to state his views. If it is a first placement in such an establishment the prisoner may also express his views to the prison adviser, who draws up a report listing any objections to the proposal put forward by the prisoner. The final decision is taken by the Selection Advisory Committee.

comment

- the Dutch authorities are invited to explore the possibility of providing some additional activities, apart from exercise, for prisoners held under pre-trial segregation on the orders of a judge in unit 4B of Demersluis Prison (paragraph 92)

Remand detainees ordered by the court to be held in segregation can obviously not take part in regular activities as they are not permitted to associate with other detainees. In individual cases some flexibility is possible, for instance by allowing two such detainees to watch television together. But that too must first be approved by an examining magistrate. The average length of stay in unit 4B is four to six weeks.

requests for information

- a copy of the law on the EBI system (paragraph 94)

A bill governing EBIs and amending various sections of the Prisons Act has been introduced in parliament. At the request of the State Secretary for Justice, the bill's passage through parliament has been deferred pending the completion and presentation to parliament of a new Prisons Act, which is designed to provide a firm legal basis for the EBI system. In view of the provisions contained in the latter, it is likely that the EBI bill will be withdrawn. If not, it will in any event be structurally amended. This being the case, the CPT will presumably no longer be interested in receiving a copy of the bill. A translation will however be forwarded if it so wishes.

- the avenues open to a prisoner for the purposes of challenging a decision to place him in a special detention unit or to renew his placement (paragraph 96)

Detainees placed in an EBI unit can at all times challenge the decision by applying to the court for an interlocutory judgement. In addition, persons held in an EBI prison may invoke Section 123 of the Prison Rules and to address an appeal to the Placement/Transfer Appeals Committee of the Prisons Section of the Central Council for the Application of Criminal Law. This option will not be available to detainees held in an EBI remand centre until the new Prisons Act has been enacted

3. Conditions of detention in general

recommendation

- facilities for sport at the Alexandra Youth Detention Centre to be improved (paragraph 111)

Additional sports facilities have been provided by sanctioning the use of the gymnasium attached to the Centre's school.

comments

- it would be appropriate to increase the number of language courses in De Singel Prison for foreign prisoners who speak neither Dutch nor English (paragraph 99)

As from late 1993/early 1994 De Singel Prison is to be put to a different use. The women prisoners will be transferred to new establishments at Zwolle and Heerhugowaard. The CPT's remarks on the need for more language courses will be brought to the attention of the directors of these establishments.

- desirability of supplementing the therapeutic content of the psychological services available at Alexandra Youth Detention Centre by employing a psychologist at the

Centre on a full-time basis (paragraph 112)

The Centre is to put forward a plan for the employment of a full-time behavioural therapist, which will be favourably received by the Ministry of Justice.

- the Dutch authorities are invited to review the programmes of education provided at Het Nieuwe Lloyd Youth Detention Centre, with a view to their intensification (paragraph 116)

The idea that the youthful inmates of the Centre receive only one hour of formal teaching per week is based on a misunderstanding. A daily programme from 9 a.m. to 5 p.m. caters for sports, creative handicrafts, general technology, metal working, carpentry, Dutch and arithmetic. Attendance at these courses is compulsory.

4. Medical services in the establishments visited

recommendations

- a person capable of providing first aid - preferably someone with a recognised nursing qualification - to always be present on prison premises, including at night and during weekends (paragraph 120)

In the Amsterdam 'Over Amstel' complex (comprising remand centres, a prison and a women's prison) a nurse is present 24 hours a day. The nature of the services required of the night nurse are not such as to necessitate a nurse for each individual unit.

First aid forms part of the prison officer training provided by the Education and Training Centre of the Directorate-General for the Protection of Young People and the Care of

Offenders. Strict rules apply throughout the Netherlands as regards such points as the availability of general practitioners and the maximum time that may elapse between reporting an emergency and the arrival of a doctor. The same applies in respect of alerting the ambulance services.

- whenever a prisoner is medically examined following a violent incident in a prison, the results of that examination (including any relevant statements by the prisoner and the doctor's conclusions) to be expressly recorded and made available to the prisoner (paragraph 122)

Entries must be made on the patient's card or file of all medical examinations and the doctor's findings and conclusions. As mentioned in the foregoing, the same rules apply for the doctor/prisoner relationship as for all doctor/patient relationships. The prisoner's right to access to his medical file is guaranteed in the code of conduct drawn up by the Royal Dutch Medical Association, case law, the Data Protection Act and forthcoming legislation on medical treatment contracts between doctors and patients.

- certain female prisoners at De Singel Prison whose condition necessitates constant psychiatric care to be transferred to an appropriate hospital facility without delay (paragraph 130)

and

- the isolation unit at De Singel Prison is not an appropriate place to accommodate prisoners in need of psychiatric care (paragraph 137)

The CPT rightly states that prisoners with psychiatric disorders must receive adequate treatment, whether inside or outside the establishment. For male prisoners there is the Forensic Observation and Therapy Centre (FOBA) where those in an acute condition can be hospitalised, but there is no

similar facility for women prisoners, whose numbers are too few to warrant a separate centre of this kind. In individual cases, however, care is taken to ensure that they receive the appropriate therapy or treatment. An individual therapy centre (IBA) is planned for one of the new women's prisons scheduled to be opened shortly, and this, together with improved provisions for transfer to external psychiatric hospitals, should remedy the situation observed by the CPT.

comments

- an ongoing programme of information for prisoners in general and prison staff concerning transmittable diseases (risks of transmission and means of protection) is most important (paragraph 124)

and

- copies of any instructions or guidelines drawn up by the national authorities regarding the approach to be adopted towards HIV positive prisoners and prisoners who have developed AIDS (paragraph 124)

An information campaign on AIDS in penal establishments was launched in 1987 with a circular (see Appendix) containing guidelines for hygiene, prison regimes, information and psycho-social care. Aimed at averting dangerous behaviour by providing information for both staff and inmates, the circular listed measures to reduce the risks for both groups. Staff were to be provided with protective gloves, and condoms made available to inmates.

Over the past few years a working group on AIDS information in penal establishments has drawn up proposals for the systematic development of policy in this area, and activities have expanded ever further. Special courses are provided for nursing staff, who assist with the provision of information for staff and inmates and with the counselling of inmates

belonging to high-risk groups. Other, experimental information projects are currently in progress in a number of prisons. Special information packages for prisoners have been assembled in consultation with external organisations active in this field. Efforts are now being made to organise information on more structural lines by promoting contact between prisons and regional organisations concerned with AIDS prevention. In addition, a part-time AIDS consultant has been appointed to advise prison administrations planning to set up special projects. In more general terms, a study is to be carried out to determine what constitutes effective information on avoiding risks. To meet the need of nursing staffs for guidelines in carrying out HIV tests, general directions for such tests will be drawn up by the working group referred to above.

Prisoners who are HIV positive or who have developed AIDS receive psycho-social and medical care. AIDS patients are temporarily admitted to the prison hospital for treatment of the diseases precipitated by AIDS. Prisoners in the terminal stage of the illness have the remainder of their sentences remitted.

- mentally-ill prisoners should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff (paragraph 130)

In recent years a systematic approach has been adopted to the care of prisoners with psychiatric disorders. Specifically, they are divided into two groups: those who can be cared for within the penal system, and those requiring admission to external mental health care institutions. Psycho-social teams in penal establishments provide intensive therapy for the former. In addition, there are individual therapy departments (IBAs) and clinical facilities such as the therapy department at the Prisons Selection Centre (PSC) and the Forensic Observation and Therapy Centre (FOBA), which has lately been

expanded to 54 places.

Attention is also being directed to enlarging the internal capacity for the care of mentally-ill prisoners. In addition to the existing forensic psychiatric clinic (FPK) in Eindhoven, a second clinic is to be opened in Assen in March 1994, and there are plans for a third in Amsterdam. For some years, an additional 40 beds have been available for detainees in forensic departments attached to four psychiatric hospitals. The Ministries of Justice and of Welfare, Health and Cultural Affairs are currently engaged in consultations on creating greater flexibility in the transfer of patients from penal establishments, and specifically those subject to hospital orders, to external psychiatric institutions.

requests for information

- information on the status of doctors within the prison administration in the Netherlands, on the criteria governing their clinical decisions and on the assessment of the quality and effectiveness of medical work (paragraph 118)

Prison directors can recruit doctors, usually local general practitioners, on a full- or part-time basis. They have the status of civil servants for the time thus spent in government service, and are responsible to the director. Prison medical services are governed by the Prison Rules, the regulations of individual prisons and ministerial directives. Responsibility for the organisational aspects of health care rests with the director; all clinical decisions are the inalienable right of the doctor, regardless of whether or not he is formally attached to the prison service.

The quality and effectiveness of medical care are safeguarded in a number of ways. Prison medical services are supervised by the Health Inspectorate, and all medical treatment may be

reviewed by the medical disciplinary board. Moreover, a medical inspector is attached to the Ministry of Justice. While he exercises no authority over prison doctors, his professional autonomy is such that in some circumstances he can influence a prison doctor to follow a certain course of action.

- the progress being made towards the creation of a mother and child unit in De Singel Prison (paragraph 123)

A mother and child unit was opened in Ter Peel Prison at Sevenum in mid-1993. Whether a similar unit is to be provided in the new women's prison at Zwolle, which is to house the prisoners at present in De Singel Prison, will depend on the evaluation of the results of the Ter Peel Prison experiment to be conducted when it has been in progress for two years.

- comments on the delay in transferring some male and female prisoners met by the CPT's delegation, in respect of whom treatment measures (e.g. a TBS placement) had been decided (paragraph 130)

The increase in the number of persons under a TBS order has placed the existing capacity under severe strain, causing a rise in the number of prisoners awaiting transfer to a TBS clinic. The Netherlands Government shares the CPT's view that such prisoners should be placed in an appropriate hospital facility within a reasonable length of time. The situation has changed, however, since the delegation's visit. A programme has been set up to increase the capacity through building projects and the creation of more places in existing establishments, and outpatient departments for part-time treatment have been added to some TBS clinics, widening the prospects for early probationary leave. These measures will reduce waiting times considerably.

5. Other issues of relevance to the CPT's mandate

recommendation

- the Prison Rules to be amended in order to increase the minimum period of outdoor exercise for prisoners to one hour a day (paragraph 131)

As the CPT notes, the Prison Rules provide for prisoners to have outdoor exercise for at least half an hour a day. The regulations of the various prisons, including the remand centres, allow one hour's outdoor exercise a day. The same regulation is to be introduced in Demersluis Prison in 1994. The CPT's recommendation that the Prison Rules be amended in this respect has been incorporated in the new Prisons Bill, section 48, subsection 3 of which lays down that the director is to ensure that prisoners are to be given the opportunity of spending at least one hour outdoors a day.

The guidelines for the regime in TEBIs specify under the heading 'outdoor exercise' that it must comprise at least one hour a day, that there may be no contact during these periods with inmates from other parts of the prison, and that the time and place be fixed anew each day.

requests for information

- whether practice in the area of the medical supervision of the mental and physical state of prisoners placed in solitary confinement is consistent with the considerations in paragraph 138 (paragraph 138)

Prisoners may be placed in solitary confinement for disciplinary reasons or for reasons of order and security. When it is imposed for disciplinary reasons the prison director immediately notifies the medical service, which sees the prisoner before he is transferred or, if the director

wishes him to be moved at once, as soon as possible thereafter. He is visited regularly by a doctor or nurse throughout the period of solitary confinement. A prisoner's request to see a doctor is acted upon without delay.

Prisoners held in solitary confinement for reasons of order and security are usually placed at once in an isolation cell. The prison director immediately notifies the medical service, and the prisoner receives medical attention within 24 hours. Thereafter he is visited daily by a doctor or nurse. Here, too, it is the rule that at a prisoner's request, a doctor is called as soon as possible.

The doctor records details of medical examinations in the prisoner's file, and prison officers keep a daily record of the prisoner's behaviour and the progress of his confinement. In accordance with the privacy laws, the prison director is not permitted to see prisoners' medical files, though as noted above, prisoners themselves do possess this right. For this reason, the CPT's recommendation that the results of medical examinations be set out in a written statement to be forwarded to the competent authorities (presumably the prison director) cannot be put into practice. However, should the circumstances so require, for instance if special measures are called for, the doctor may communicate his findings to the prison director.

- safeguards for prisoners subject to solitary confinement for reasons of order and security (paragraph 139)

Prisoners placed in solitary confinement for either of the above reasons are informed in writing by the prison director of the measure and of the reasons for the measure within 24 hours. He also informs them of their right to contest the measure before the Complaints Commission. In view of the state of mind of many such prisoners, interviewing them may prove difficult. The new Prisons Act will nevertheless contain

special provisions relating to hearings of this kind.

- information on the application in practice of the complaints and inspection procedures (paragraph 145)

Prisoners make full use of the complaints and appeals procedures open to them. Decisions of relevance are sent by the Ministry of Justice to the various establishments to further a uniform approach to the execution of sentences. The Supervisory Committees and the Central Council for the Application of Criminal Law carry out their statutory mandate most punctiliously. A member of the Supervisory Committee holds monthly consulting hours for prisoners, and in this way they keep informed of the wishes and feelings of the inmates.

C. The Border Detention Centre

recommendation

- a high priority to be given to the adoption of the internal rules of the Grenshospitium and those rules to be made available to inmates on arrival in an appropriate range of languages, together with relevant information about their rights (paragraph 153)

The regulations governing the Border Detention Centre regime entered into force by an order in council dated 1 April 1993, and draft internal rules are expected to become operative in the near future, after assessment by the Hostel's Supervisory Committee.

Detainees are informed of the rules upon arrival at the establishment, and brochures giving information in various languages on the internal rules, visiting privileges and use of the telephone are placed in all cells.

As recommended by the Van den Haak Commission (see the information provided on paragraph 18 of the CPT report), 'return officers' will shortly be appointed at the Border Detention Centre to give assistance and support to the inmates, and to provide them with all the information they need.

comments

- it would be preferable for those held in the Grenshospitium to be accommodated as far as possible one to a cell, unless they request otherwise (in order to share a cell with a member of their family/friend who is also detained) (paragraph 150)

This is in fact the present situation.

requests for information

- a full account of the incident said to have taken place inside the Grenshospitium on 30 November 1992, together with the comments of the Dutch authorities on allegations that two detainees were injured during that incident and certain inmates were transferred to discipline units in the Over Amstel prison complex (paragraph 147)

and

- details of any judicial and/or administrative enquiries which may have been carried out into the above-mentioned incident (paragraph 147)

On 30 November 1992 ten detainees in the Border Detention Centre displayed unruly behaviour and incited others to do the same. With the aid of the National Special Assistance Unit for Prisons they were transferred to other establishments. The background is as follows:

The majority of persons held in the Border Detention Centre are awaiting expulsion, and are thus in a state of uncertainty regarding the future. In mid-November the expulsion of a detainee did not take place and his return from Schiphol Airport with injuries to his face caused considerable unrest. The detainees wanted explicit information about their future from the administration, which it was unable to provide since decisions on applications for asylum are taken at the central level. Nor could the administration accede to the detainees' demand that they be placed in an open camp. Minor incidents were a frequent occurrence. In discussions with the detainees the administration repeatedly explained that their powers were limited, but their efforts to calm things down were to no avail and the situation escalated ever further.

After further talks on the morning of 30 November, one of the detainees reported that some were planning to use violence against the staff on the following day if their demands were not met. A second discussion followed, and the situation became more threatening. Mindful of the threat of violence, the director, in consultation with the prisons department of the Ministry of Justice, decided to transfer the persons whom he considered to be responsible for the unrest. It was arranged in advance with the commander of the special assistance unit that just a minimum of force was to be used if they encountered resistance. The detainees in question put up fierce resistance and had to be removed by force. All were placed in isolation cells, some in the Over-Amstel complex in Amsterdam, others in Veenhuizen Prison. None of them sustained injuries.

Although the detainees themselves lodged no complaints about the events on 30 November, the CID instituted an investigation at the express request of the head of the Care of Offenders and Youth Institutions Department of the Ministry of Justice. The key question was whether undue force had been used. Early rumours that a number of persons had been injured proved to be

without foundation. The Amsterdam chief public prosecutor concluded that there were no grounds for any further inquiry.

- the comments of the Dutch authorities on the subject of special safeguards during the intervention of outside security forces in places of detention (paragraph 148)

Outside security forces are deployed in penal establishments only in the event of disasters. The prison system has its own assistance units for deployment when required. The Netherlands Government is of the opinion that the special care with which operations in prisons must be conducted can best be ensured if they are entrusted to units which themselves form part of the system and are thus familiar with its workings. They are composed of executive and other prison staff, making it possible to adopt a considered approach to their task which is geared to preventing escalation. The methods to be used are always discussed in advance.

Intervention may occasionally be necessary at such short notice that the assistance unit of the establishment concerned cannot be mobilised in time. In such instances the prison administration is empowered to invoke the aid of the local police force. All administrations are required to make arrangements with their local authorities about alarm procedures, which will generally include the possible deployment of the police and the conditions to which such intervention is subject.

- information on practical arrangements and safeguards for ensuring that persons are not sent to a country where they run a risk of being subjected to torture or to inhuman or degrading treatment or punishment (paragraph 154)

The procedure followed in respect of applications for asylum in the Netherlands is as follows:

*** First stage**

All persons stating on their arrival in the Netherlands that they wish to apply for asylum are given the opportunity to do so, and are permitted to remain in the country pending the first decision.

*** Review**

If the decision is negative the asylum seeker can ask for it to be reviewed by the State Secretary for Justice, who will then decide whether he may remain in the Netherlands pending the outcome of the review.

*** Appeal**

If the outcome of the review is also negative, the asylum seeker may lodge an appeal with the Administration of Justice Section of the Council of State. Here, too, the State Secretary for Justice decides whether the applicant may await the Council's decision in the Netherlands.

*** Interlocutory injunction**

If in either case the State Secretary decides that the appellant may not remain in the Netherlands pending a decision, he may apply to the court for an interlocutory judgement prohibiting his imminent expulsion. Though not prescribed by law, it has become the usual practice for such appellants to be permitted to remain in the Netherlands pending the court's decision.

The Border Detention Centre

Asylum seekers arriving at Dutch airports can only be refused entry to the Netherlands by the Royal Military Constabulary on the specific instructions of the Minister for Justice. Asylum seekers are refused entry and placed in the Border Detention Centre when there seem to be no grounds for an asylum application. They are permitted to remain in the Netherlands pending the first decision and the court's ruling on their

expulsion.

Asylum applications

All asylum seekers are interviewed by a Ministry of Justice reception officer. This usually takes 3 or 4 hours. On the basis of the report of the interview another Ministry official assesses the application in accordance with the Geneva Convention on the Status of Refugees, Section 15 of the Aliens Act and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The asylum seeker's account is viewed against the background of the situation in the country of origin. The Aliens Department of the Ministry possesses extensive documentation on a large number of countries drawn from different sources which is kept fully up to date. The sources include Amnesty International, country reports compiled by the US State Department, news items collected from many newspapers and periodicals, and publications such as 'Africa South of the Sahara', 'World Europe Yearbook', 'Far East and Australasia', 'Middle East and North Africa', 'Political Parties of the World' and 'World of Learning'. The documentation service also receives reports from the Bundesamt für die Anerkennung Ausländische Flüchtlinge and the Canadian Immigration and Refugee Board Documentation Centre.

If necessary, the medical inspector of the Ministry of Justice conducts a mental and physical examination of asylum seekers to determine whether they have been subjected to torture or other ill treatment.

In addition, both general and specific information on many countries is supplied by the Ministry of Foreign Affairs, which if required also conducts inquiries in the country of origin of individual asylum seekers. Intensive telephone contact is maintained between officials of this Ministry and

the Ministry of Justice.

The decision

The assessment of asylum applications results in one of the following four decisions:

- A. The asylum seeker is admitted as a refugee.
- B. The application for refugee status is rejected, but a residence permit is granted on humanitarian grounds.
- C. The applications for refugee status and for a residence permit are both rejected, but the applicant is not expelled to the country of origin.
- D. The applications for refugee status and for a residence permit are both rejected and, following on a negative court decision, the applicant is expelled to the country of origin.

re B:

Asylum seekers not corresponding to the definition of a refugee are sometimes granted a residence permit because for humanitarian reasons they cannot reasonably be expected to return to their countries of origin. Such a reason may be a real risk of treatment or punishment as referred to in Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Or again, an asylum seeker may have been subjected to torture, and even if there is no apparent reason to assume that it will happen again the experience has had such a profound effect on his physical and mental health that it would be unreasonable to send him back.

re C:

Asylum seekers who do not qualify for refugee status or for a residence permit are not forced to return to the country of origin in instances where the human rights situation in that country is such that expulsion could give rise to a violation of Article 3 of the European Convention for the Protection of

Human Rights and Fundamental Freedoms.

Ministry of Justice
December 1993

To: the Prison Governors

Date: 27 August 1987

Re: Aids

1. Introduction

The problem of Aids (Acquired Immune Deficiency Syndrome) requires the most urgent attention. From the information currently available concerning the transmission and spread of HIV (the human immunodeficiency virus which may develop into full-blown Aids), it is logical to conclude that a proportion of the prison population is infected.

Given that the disease is not yet curable and that the number of people infected by the virus is increasing, it is crucial for a policy to be formulated which is geared specifically to conditions in prisons and other penal establishments. To this end, the present circular has been compiled, based on the Aids protocol which was drawn up by a working party from the Over Amstel penal establishments and discussed at the general governors' conference this year.

More attention should also be devoted to the purely medical aspects as well as the psychosocial problems associated with Aids.

The dimensions of the problem in any given institution depends mainly on the percentage of intravenous drug-users among the inmates.

2. Transmission of the virus

HIV is transmitted through the bloodstream. As far as is known, it can enter the bloodstream through contact between blood and blood or between blood and sperm. The most common, known modes of communication are:

- . sexual contact (notably anal)
- . sharing of contaminated needles, syringes and razor blades
- . incidents which enable infected blood to penetrate skin or mucous membrane
- . tattooing and acupuncture
- . infection of a foetus or infant by a seropositive mother during or after birth.

Taking this into account, it is important that attention be paid in penal institutions to aggressive behaviour, such as biting or scratching which could result in flesh wounds, and to "mishaps" with needles, blades etc. which may occur at visiting times or during body-search procedures or cell inspections. However, there is little risk of transmitting HIV in the latter case, while it is generally true that the risk of hepatitis B infection is far greater. Measures which effectively prevent the transmission of the hepatitis B virus are therefore equally effective against HIV infection.

It should be emphasised that there is no risk of HIV infection in everyday social encounters. The virus is not transmitted through skin contact, breath, sneezing, coughing, kissing or by sharing cutlery, lavatories, showers, etc.

The only effective way to prevent the transmission of the HIV or hepatitis B virus is to avoid any contact between blood and blood or between blood and sperm.

3. Dutch policy on Aids

The policy on Aids in the Netherlands can be summarised as follows:

- . campaigns are organised to inform the public about the way in which infections are transmitted
- . the public is urged to take preventive measures to reduce the risk of infection
- . the idea of compulsory testing for HIV antibodies has been dismissed.

The National Aids Policy Coordination Bureau provides information material and generally plays an important role in disseminating information. The public is strongly urged to study a basic question-and-answer leaflet on Aids, which has been compiled on the basis of a Health Council report containing guidelines for group research and recommendations for the prevention of Aids in the Netherlands.

4. Policy specifically for penal institutions

Although policy essentially corresponds to the national policy, in so far as it applies to penal institutions a special distinction is made between instructions and guidelines.

The instructions refer to the minimum provisions which are compulsory in all penal establishments to ensure that staff and inmates have the means and opportunity to take optimal precautions.

The guidelines concern the manner in which these means and opportunities can be employed effectively in the normal daily routine, and the arrangements that can be made to ensure that they are indeed put into practise.

These instructions and guidelines, which cover the categories of hygiene, information, regime and psychosocial care, should be incorporated in the house rules of every establishment. (See the index and list of addresses and telephone numbers on the last page).

5. Instructions and guidelines for preventing HIV infection

5.1 Hygiene

A number of precautions are crucial to prevent the spread of HIV. As stated previously, the information available at present suggests the measures employed to prevent hepatitis B infection offer adequate protection.

A distinction is made between "heavy-duty gloves" and "household gloves". The former are made of leather, reinforced canvas or a material which is likewise difficult to perforate, while "household gloves" can be made of supple rubber, plastic or any other material which allows for some sense of touch. The latter category are obviously unsuitable for activities in which the skin is liable to be pierced by sharp or rough objects.

It is imperative that instructions concerning hygiene be observed, regardless of whether HIV or any other infection has been diagnosed.

5.2 Instructions on hygiene

5.2.1.

The administration is responsible for ensuring that a sufficient supply of heavy-duty and household gloves is available and that they are indeed used.

5.2.2

In order to reduce the risk of infection from toilet articles, inmates should be supplied with disposable razor blades, while waste-disposal bins should be made of a sturdy material.

5.2.3

Inmates should be provided with proper laundry facilities or services to prevent the spread of infection through clothing. Biological detergents must be available on sale.

5.2.4

Condoms must be available on sale in all penal institutions.

5.2.5

The following procedure must be observed in the event of accidents to detainees or staff involving skin wounds from bites or other causes:

- . the wound must be attended to and disinfected immediately by a member of the institution's medical staff, a general practitioner or a qualified hospital first-aid assistant;
- . the incident must be reported to the administration and the prison medical officer, and treated as an industrial accident;
- . the prison medical officer must be consulted within 48 hours to decide whether the victim should receive a hepatitis B vaccination.

Any injections required should be administered by the prison medical officer, a general practitioner or a hospital first-aid assistant. Blood tests may only be taken by the prison medical officer.

5.3 Guidelines on hygiene

5.3.1

Every possible effort should be made to avoid handling sharp objects such as broken glass, razor blades, sharp-edged cutlery etc. with bare hands. Protective gloves should therefore be worn whenever feasible.

5.3.2

Bins which can be closed and cannot be perforated should be available on the spot for the disposal of syringes, injection needles, surgical knives and similar objects. To reduce the risk of accidents in which the skin may be pierced, it is advisable not to replace the protective seal on injection needles or to bend or break the needles.

5.3.3

Household gloves should be worn in any situation which may involve exposure to blood or other body fluids.

5.3.4

Objects soiled with blood or any other body fluid should be disinfected (1:10 solution of bleach and water) after being cleaned with an ordinary detergent. Household gloves must be worn throughout the process. Items of clothing soiled with blood must be washed thoroughly in a washing machine.

5.3.5

Hands should be washed frequently with soap and water, particularly after removing gloves. Open skin wounds or abrasions should be covered by plastic sticking plaster.

5.3.6

Persons administering dental treatment should follow the standard procedures for preventing hepatitis B infection. In this connection, please refer to chapter 9 of the

Health Council report on Aids in the Netherlands.

5.3.7

Staff are advised to wear heavy-duty gloves when conducting cell inspections in order to avoid injuries from injection needles or cutlery.

5.3.8

Staff and detainees should wear household gloves when cleaning cells or other areas, particularly if they are exposed to blood. It is also advisable to wear heavy-duty gloves when emptying disposal bins if this entails any risk of injury.

5.3.9

Blood stains which remain visible after cleaning with detergent should be treated with disinfectant. Bleach diluted with water (1:10) is recommended for this purpose.

5.3.10

The administration should encourage both staff and detainees to reserve toilet articles (razor blades, electric razors, toothbrushes etc.) exclusively for their personal use and not to lend or share them.

5.3.11

Women should be urged to exercise care in disposing of sanitary towels and tampons. They should be provided with special disposal bins for this purpose.

5.3.12

Household gloves should be worn when conducting body and clothing searches. For the purpose of body searches or physical examination, detainees should remove their own clothing. Heavy-duty gloves should be worn as a precaution against injury when examining clothing.

5.3.13

Household gloves should be worn when administering first aid. If possible, the mouth and nose should be covered when administering mouth-to-mouth resuscitation.

5.3.14

There is no reason for kitchen or canteen staff who have been diagnosed seropositive to be relieved of their duties unless other factors exist which make their presence in food-handling areas undesirable for reasons of hygiene.

5.3.15

If relevant, staff training courses of sports programmes should devote special attention to seize-and-restrain techniques.

5.4 Instructions on information

It is of the utmost importance for staff and detainees to be briefed regularly and repeatedly and to ensure that the information they receive is accurate and reliable. The question-and-answer leaflet referred to previously, published by the National Aids Policy Coordination Bureau, has been sent to all penal establishments and is particularly suitable for this purpose.

5.4.1

The prison medical officer is responsible for ensuring that new detainees are informed of the risks of certain activities and of the ways in which HIV is transferred. He or she will obviously be expected to devote special attention to seropositive detainees.

5.4.2

Information leaflets and brochures in various languages must be readily available.

5.4.3

Meetings must be held at regular intervals in order to provide information to both staff and inmates. The agenda of such meetings should be compiled by the administration in close consultation with the prison medical officers.

5.5 Guidelines on information

Information about Aids should be incorporated in the basic staff training programme. The information component should be planned in consultation with the Government Occupational Health and Safety Service (RBB) and outside specialists.

5.6 Instructions concerning the regime

No special provision need be made over and above the general precautionary measures described above. The instructions in this case are therefore no different from those which already apply.

5.6.1

All detainees have the right to equal treatment. The stigmatisation, isolation or grouping together of persons infected with HIV is not acceptable. They must be free to participate in all spheres of prison life.

5.6.2

In the event of any person threatening to infect another (regardless of whether or not the person is seropositive), the incident shall constitute a threat of serious bodily harm and should be accordingly be treated as an offence of that nature.

5.7 Guidelines concerning the regime

5.7.1

In consultation with the Ministry of Justice, suitable arrangements should be made for detainees with physical complaints symptomatic of HIV infection. If necessary, this may follow admission to the prison hospital.

5.7.2

It is reasonable to expect staff to restrain aggressive detainees providing that they have had the opportunity to take precautionary measures to avoid contact with blood. The same applies in the event of first aid being required or if there is cleaning up to be done after an accident. Any person may refuse to do these duties if they are not provided with gloves. Indeed, both staff and detainees should be encouraged to wear gloves in such circumstances.

5.8 Guidelines on psychosocial care

These guidelines refer primarily to people who are known to be infected with HIV. Although it is virtually impossible to lay down hard and fast rules, the administration is responsible for ensuring that the problem receives full attention. Psychologists, people offering spiritual guidance in whatever form and, indeed, members of staff themselves should be prepared for the fact that an individual who is diagnosed as seropositive will have difficulty in coming to terms with this knowledge. Much depends on the professionalism with which such painful information is conveyed and on the assistance and guidance subsequently offered.

6 Conclusion

It is clearly of the utmost importance that measures be taken in compliance with the instructions and guidelines described above, particularly those concerning hygiene and information. If the institutions are unable to cover the cost of such provisions themselves, further consultations will be held between them and the relevant departments of the Ministry.

At this stage, you are requested to compile a set of Aids prevention house rules for your own institution, based on the instructions and guidelines set out in the present circular, and to take such measures as can be introduced immediately.

C. Davids

Deputy Head, Prisons Department
for the State Secretary for Justice
for the Minister of Justice